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BEFORE THE
Federal Communications Commission
WASHINGTON, D. C.

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Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Advanced Television Systems)
and Their Impact on the)
Existing Television Broadcast)
Service)
)
Review of Technical and)
Operational Requirements:)
Part 73-E, Television Broadcast)
Stations)
)
Reevaluation of the UHF)
Television Channel and Distance)
Separation Requirements of)
Part 73 of the Commission's Rules)

MM Docket No. 87-268

To the Commission:

REPLY COMMENTS
OF
HSN SILVER KING BROADCASTING COMPANY, INC.

HSN Silver King Broadcasting Company, Inc.
["HSNSKB"],^{1/} by its attorneys, submits herewith its Reply
Comments in the above-captioned proceeding.

^{1/} HSN Silver King Broadcasting Company, Inc., is the parent of the licensees of twelve UHF television stations (including one satellite station) operating in major television markets throughout the United States.

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Introduction

The Commission's Tentative Decision and Further Notice of Inquiry in this proceeding^{2/} sets forth the Commission's preliminary conclusions concerning a number of the complex issues associated with the development of advanced television ["ATV"] systems in this country and solicits comments on additional related considerations. Among the responsive comments were Joint Comments filed on behalf of the Association of Maximum Service Telecasters, the National Association of Broadcasters, the Association of Independent Television Stations and seventy other broadcast organizations and companies including HSNSKB ["MST Joint Comments"].

The MST Joint Comments endorse the Commission's conclusion that provision of ATV by domestic terrestrial broadcasters is consistent with the public interest; urge the Commission to provide sufficient spectrum for such use; support Commission adoption of a single standard or family of standards for terrestrial broadcast ATV transmission; endorse the concept of intermedia interoperability; and urge the Commission to refrain from actions which could prematurely impede development of and implementation of broadcast ATV.

^{2/} FCC 88-288 (September 1, 1988) ["Tentative Decision"].

HSNSKB agrees with and supports the MST Joint Comments. There is a clear public interest in decisive Commission action establishing an environment which facilitates the rapid and efficient introduction of ATV systems usable by this country's existing terrestrial broadcasters and compatible with existing NTSC equipment. However, in addition to the positions taken in the MST Joint Comments, HSNSKB offers these reply comments on several additional issues.

The Commission Should Waive its Freeze
Where the Continued Operation of
the New Station can be Guaranteed

HSNSKB believes that the Commission should not make any premature general allotment decisions which might preclude optimum spectrum allocation for ATV use, and specifically should refrain from reallocating for non-broadcast use any spectrum currently designated for broadcast use. Although HSNSKB thus supports the general policy objectives of the current freeze on certain new television allocations and applications,^{3/} it urges the Commission to remain receptive to requests for waiver thereof.

Indeed, in the freeze Order itself, the Commission indicated that it would "...consider waiver requests on a case-by-case basis for non-commercial educational channels,

^{3/} Order, RM 5811, Mimeo No. 4074 (July 17, 1987).

or for applicants which provide compelling reasons why this freeze should not apply to their particular situations or class of stations." HSNSKB suggests that among the compelling reasons which would support a waiver would be situations in which the ability of the new station to sustain continued operation would be guaranteed.

The past several years have seen an increasing incidence of construction permits, many awarded after lengthy and costly comparative hearings, dying on the vine for want of financial support.^{4/} Not only does this circumstance represent an unfortunate waste of the resources of the Commission and applicants alike: it frustrates the Commission's longstanding policy objective of fostering institution of new broadcast service (particularly by minority broadcasters) and thus increasing media diversity.

That overriding policy goal -- institution of new broadcast service -- would be served if the Commission would waive the current freeze in circumstances in which it can be demonstrated that the proposed new service will in fact be instituted and continued over a significant period of time. Given the past history, these situations will be exceptional and should not defeat the general purpose of the freeze.

^{4/} During 1986 and 1987, for example, the Commission cancelled approximately 57 construction television permits; additional permits have been cancelled in 1988.

ATV Standards Should Not
Limit the Development of Auxiliary Services

A series of recent Commission actions have paved the way for development and introduction of new services using portions of the television raster not necessary to the reception of video programming.^{5/} Consistent with the Commission's goal of fostering technological innovation, HSNSKB is investigating possible new uses for the spectrum that would be ancillary to its principal broadcast service. Although HSNSKB supports Commission adoption of a single standard for ATV transmissions, it also believes that continued development of ancillary services should not be thwarted by that standard.

Rather, the Commission should define such a standard's parameters only to the extent necessary to achieve terrestrial broadcast standardization for viewer reception; it should not, however, adopt any standard which limits the development of ancillary services within current and future frequency allocations.

^{5/} See, e.g., Report and Order, MM Docket No. 86-110, 61 RR 2d 66 (1986); Report and Order, MM Docket No. 84-168, 101 FCC 2d 973 (1985); Second Report and Order, Docket No. 21323, 55 RR 2d 1642, recons. denied, 56 RR 2d 973 (1984); Report and Order, BC Docket No. 81-741, 53 RR 2d 1309 (1983).

**ATV Standards Must Provide
Performance Equivalent to HDTV Video**

HSNSKB submits that it is critical that the Commission's ATV standard not compromise technical quality: it must ensure picture quality comparable to that produced by other HDTV systems. Given the state of ATV development, it is probable that HDTV signals from various sources will already be available to viewers when the Commission's ATV standard is established. That standard must be capable of picture quality equivalent to established HDTV systems.

Media which cannot deliver at least an equivalent signal to that already available will be unable to compete effectively: experience demonstrates that consumers will demand better quality service when it becomes available. Program value being equal, the best quality signal will be the one chosen by viewers.^{6/} And if broadcasters are penalized by being forced to provide inferior quality ATV signals, the ultimate consequence will be an overall decline in the quality of service being received by the American public. In short, the Commission's ATV standard must not compromise picture quality compared to other available ATV systems.

^{6/} The accuracy of this prediction is confirmed by the decline of AM radio and the corresponding growth of FM radio. See Report on the Status of the AM Broadcast Rules (RM-5532), Mass Media Bureau, FCC (April 3, 1986).

Conclusion

HSN Silver King Broadcasting Company, Inc., supports the MST Joint Comments but urges the Commission to review carefully requests to waive its current freeze in circumstances in which institution and continuation of new service can be guaranteed. It also urges the Commission to adopt an ATV standard which does not compromise technical quality and which permits continued development and institution of ancillary television services.

Respectfully submitted,

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COMPANY, INC.

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